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TO THE

LAY MEMBERS OF THE CHURCH OF ENGLAND

IN THE

DIOCESE OF FREDERICTON.

YOUR attention is requested to the important questions involved in the formation of a Diocesan Synod among the Members of the Church of England in this Province. The subject is admittedly one of great consequence to the Church of which you are members, and deserving therefore of a careful and candid consideration.

It is urged against the formation of a Diocesan Synod that such Synod is an illegal meeting; that in joining it a step is taken which must inevitably separate us from the Mother Church; that it will give an undue power to the Bishop and Clergy as regards the Lay members of the Church, and at the same time tend to restrain the liberty of free action as well of the Clergy as of the Laity of the Diocese; and that, from want of intelligence among the Laity, in country parishes at least, such an assemblage will become practically a mere engine for the development and exercise of an undefined ecclesiastical authority.

For these reasons, it is alleged that the formation of a Diocesan Synod among the members of the Church of England in New Brunswick must be unwise and inexpedient: and that the Bishop, Clergy, and representatives of the Laity from the majority of parishes in this Diocese who met in July last, and now ask their brethren to join them, have met and acted without the consideration a question so important should have received.

It is true that in the Dioceses of Huron, Toronto, Ontario, Montreal and Quebec, the Bishops, Clergy and Laity have for many years past met to advise together in Synod under substantially the same constitution as has been adopted for the Synod of this Diocese; and it is not denied that these periodical meetings have been productive of advantage. It is not contended that the Synods of those Dioceses are in any manner illegal gatherings: nor is it asserted that the members of the Church of England in those Dioceses are any the less closely united to the Mother Church of England than members of the same Church in the Diocese of Fredericton; nor are the Bishops of

those Dioceses possessed of any undue control, moral or legal, which may not also be exercised by the Bishop of this Diocese; any such control, which otherwise might be attempted, being there also guarded against and limited by the action of the Clergy and Laity in their periodical meetings in Synod. Nor is it for a moment pretended that the Laity who have taken part in Synodical Meetings in these Dioceses have shown any want of intelligence, or that the members of the Church of England in Canada have in any respect lost their independence, or become blindly subservient to any undue ecclesiastical authority.

It is not contended that the civil liberty of the subject, when guarded through his representatives in the Legislature, is less, but greater, than when dependent upon the action of a single person without the assistance of any such Council of Advice.

It is not claimed that the members of other religious denominations in this Province would be more prosperous were they to commit the government of their communions to any one person and refuse to meet him to advise together for the general good: nor that the formation among the Presbyterians of a Synod, among the Methodists of a Conference, or among the Baptists of a Convention, has in any way diminished the due freedom of action before enjoyed by the members of those denominations of Christians.

It must be supposed therefore that it is owing to a belief in the existence of some important distinctions between the position of the Church of England in New Brunswick and that of the same Church elsewhere within the Dominion of Canada, and of other denominations, as well in Quebec and Ontario as in this Province, that general and periodical meetings of the members of the Church of England in the Diocese of Fredericton have been thought to be unlawful, inexpedient or improper; and it is well to ascertain whether any such distinctions really exist, and, if so, to consider their nature and extent.

The Province of New Brunswick was created by Royal Commission in 1784, and has enjoyed the benefits of an established Legislature for more than eighty years. The position of members of the Church of England in a Province so constituted, has been considered in three important judgments: the first, that of the Judicial Committee of the Privy Council, the highest Court of Appeal from the Colonies, in the case of Long vs. the Bishop of Capetown in 1863; the second, that of the Judicial Committee of the Privy Council in the case of the Bishop of Natal in 1865; and the third, that of Lord Romilly, the Master of the Rolls, in the case of Colenso vs. Gladstone and others in 1866.

In the second of these judgments, delivered by the Lord Chancellor of England, it is stated that

"The United Church of England and Ireland is not a part of the Constitution in any Colonial settlement, nor can its authorities, or those who bear office in it, claim to be recognized by the law of the Colony otherwise than as the members of a voluntary association."

In the first of these judgments it is stated that

"The Church of England, in places where there is no Church established by law, is in the same situation with any other religious body, in no better but in no worse position, and the members may adopt, as the members of any other communion may adopt, rules for enforcing discipline within their body, which shall be binding on those who expressly or by implication have assented to them."

In the third of these judgments Lord Romilly stated that

"When a Colony possessed an established Legislature but no established Church, the Church of England was a mere voluntary association, in the same sense as any other religious association; and the members of it might agree to adopt any rules for discipline; which would, when adopted, bind them."

Since the United Church of England and Ireland is not a part of the Constitution of this Province, the Church of England in New Brunswick cannot be a part of the Church of England as by law established in England (except so far as it is made such by the voluntary consent of its members) unless it be so as the result of some special statutory provision making New Brunswick an exception to the general rule applicable to Colonial settlements.

It is undoubted that the Crown alone has no power to make any such provision, nor has it in any measure attempted to do so in New Brunswick.

The Imperial Statute Book is silent as to the establishment of the Church in any Colony.

The General Assembly of New Brunswick has of late years studiously viewed the Church of England in this Province as in the same situation with any other religious body, in no better but in no worse position: And the only Act of Assembly in force affecting the position of the Church provides merely, first, that no person shall be capable to be admitted to any ecclesiastical benefice until ordained according to the form and manner by law established in the Church of England; secondly, that every person having any benefice shall once at least in every month read the Church Service and (if there be occasion) administer the Sacraments, under the penalty of five pounds; and thirdly, that any such person who shall openly use in any place of public worship any other form of prayer shall, on conviction, be *ipso facto* disabled to officiate, and the Governor may present to his benefice as if the person so offending were dead.

These provisions cannot certainly be considered in any way to render the meeting together of the members of the Church of England in Synod illegal; or to affect any such meetings further than to prevent their interference with the appointment or deprivation of the beneficed Clergy of the Diocese in any other way than by the preparation of measures for submission to the civil Legislature.

Since, then, it must be admitted that the Church of England in this Province is not a part of the Church of England as by law established in England, unless so far as it may be made such by the voluntary consent of its members, it cannot be unlawful that the members of the Church should meet together to express that consent; nor since, in the words of the Privy Council, its "members may adopt, as the members of any other communion may adopt, rules for enforcing discipline within their body," can the assembling together of the Bishop, Clergy, and representatives of the Laity for advising upon and adopting, subject to any statutory provisions which may be in force, any such rules, be in any sense an unlawful constitution.

In considering whether the formation of a Diocesan Synod must inevitably separate us from the Mother Church, it becomes necessary first to determine the nature and extent of the link which now unites us; and whether the Church of England in New Brunswick is a part of the Church of England as by law established in England, as the necessary result of any provisions of the law, or can be considered such in that sense only which results from the voluntary consent of its members, and their expressed desire to maintain a full communion of faith and practice with the Church at home. And since it plainly appears that it is in the latter sense only that the Church of England in this Province can be said to form a part of the United Church of England and Ireland, it is plain also that the formation of a Synod cannot, in the eye of the law, separate us from that Church. For there can be no separation between bodies which are not united. Synodical action is not indeed, as has been represented, an attempt to introduce the voluntary principle among the members of a Church already established, and to sever the connection existing with the Establishment in the Mother Country; but the effort of the members of a religious body, already in a position no better than that of a voluntary association, to attain harmonious and united action for the general good: their first act being to declare and express their firm determination to maintain that full communion with the Mother Church which still remains to them: a bond of union existing, not in the volumes of the law, but in the hearts of all true members of the Church of England. And that the tendency and effect of Synodical action has been to cement the bonds of that true union it were easy to multiply instances to prove. One may suffice—the resolution of

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that Synodical meeting of the Bishop, Clergy and Laity of the Diocese of Melbourne, which, little more than a year ago declared,

"That in the opinion of this Assembly, the principal points to be kept in view towards maintaining such connection (viz., with the United Church of England and Ireland) are, 1. The preservation of the Church in this Colony as an integral portion of the United Church of England and Ireland, although not connected with the State as an Established Church."

Yet, it being admitted that to meet in Synod is not in any measure illegal, and that the practical tendency of Synodical action is not to separate, but to unite us more closely to the Mother Church, there will still be persons who object to the formation of a Synod, because they conceive it will build up and perpetuate an ecclesiastical influence which they cannot precisely define, but which they conceive will be prejudicial to the true interests of the Church.

Let us pause and consider well what the ecclesiastical influence is which they fear. Let them try to define it. They will find that in doing so, their fears will melt away. They cannot and do not—no reasonable person will—object to a proper and well-defined authority to watch over them in the Lord. It is the very part of a Synod to define and support this just authority—to fix its due limits—and to restrain it from exceeding them. What is objected to, and with reason, is an undefined ecclesiastical influence without any due check or restraint; an influence which may be used for good or evil according to the character of the person who from time to time may wield it. Such is the influence which rests with the Bishops of a Colonial Diocese, where the Clergy and Laity have no opportunity of meeting to express and enforce their views. There, so far as there is any power to regulate and manage the order and discipline of the Church, and authority for the Government of the Clergy, it rests with the Bishop and with him alone. The formation of a Synod controls this authority—one none the less dangerous because in a great measure moral only—and furnishes a ready means of restraining it within due limits by the expression of the public opinion of the Diocese through the Clergy and Lay Delegates assembled.

A proper and defined authority is indeed most necessary for the well-being of every community—and especially of every religious community. And it is this necessity which has led one after another, when not established by law, and as a consequence under the direct control of the civil legislature, to meet, and first defining the terms of its compact, to provide in the next place for the proper cognizance of breaches of that compact by any of its members. The necessity is at least as great in the Church of England in New Brunswick as in the same Church in Ontario and Quebec, Australia and New Zealand,

or among other communions. It would be a sad day for her should some one of her Rectors adopt and proclaim the views of Colenso or of the extreme Ritualism which has shown itself in several of the English Dioceses; and should it be found that that Rector, so long as he complied with the statutory provisions of reading the Church Services and administering the Sacraments, could only be interfered with through the *moral* influence of the Bishop, to whose call to resign his cure, as deaf an ear might be turned as Dr. Colenso has turned to the voice of the English Church.

It would seem then that it was not without due consideration that the Bishop, Clergy, and Laity of this Diocese who assembled in July last, met together, and that it is not without some appearance of reason that their brethren are asked to join them.

Meeting, they have adopted a declaration of what they believe should be the terms of a compact among the members of the Church of England in a Colonial Diocese. They desire that the Church in this Diocese should continue to be, as it has been, in full communion with the United Church of England and Ireland. They recognize the Canon of Holy Scripture as received by that Church, to be the Word of God. They acknowledge the Book of Common Prayer, with the Thirty-nine Articles of Religion, to be a true and faithful declaration of the doctrines contained in Holy Scripture. And they declare their firm and unanimous resolution, in dependence on Divine aid, to preserve those doctrines and to transmit them unimpaired to posterity.

They have framed also a Constitution for a Synod. It may be that that Constitution is yet imperfect. Should it be thought so it will be for the candid objector to state his difficulties that they may be either explained or allowed. This Constitution provides for the formation of the Synod; for the choice of Lay Delegates, giving to the larger parishes a greater proportion than to the smaller; for giving publicity to such choice, so that none may be excluded from taking part in it; and for the transaction of its business when assembled, directing that each of its three branches in succession shall give its assent to any measure before it can be agreed to; thus, while it recognizes no power in any one of its branches to regulate the discipline of the Church, guarding against any innovation upon the terms of compact it has adopted by enabling each in turn to exercise a negative in favor of the minority of the other or of the others.

These terms of compact and this Constitution they have adopted for themselves, believing them to be right, just and wise, and such as in time at least must commend themselves to the judgment of all. There has been no desire to coerce, even were such coercion possible. To allege that any such desire exists would be most unjust. But one

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view was expressed upon this point at the meeting of July 1867:—that the principle of Synodical action was so just, and its necessity so apparent that it must win its way; even unaided by the force of circumstances which each year seem to point more and more plainly towards its consummation.

Two of these circumstances may be briefly alluded to:

The patronage of the Rectories of the Church of England in New Brunswick was formerly vested in the Lieutenant Governor of the Province, and is now exercised by the Governor General of Canada. Little more than a year since the Earl of Carnarvon, Principal Secretary of State for the Colonies, wrote as follows:

“With regard to the future, I have to state, that I see no reason why the patronage of these cures should continue to be exercised by the Lieutenant Governor; and I do not doubt that the Crown would be ready to transfer it to the Church of England in the Province, provided only that proper arrangements and regulations are made for its acceptance by any body of persons qualified to represent the Bishop, Clergy, and Laity of that Church.”

A Bill has recently (with a suspending clause) been passed by the House of Assembly of this Province for vesting this right in the parishioners in two Counties—Saint John and Westmorland. There seems little doubt however that that measure will be disallowed not only as beyond the power of the local Legislature to enact, but as contrary to the terms of Lord Carnarvon's despatch referring the matter to “any body of persons qualified to represent the Bishop, Clergy and Laity of the Church,” and evidently on the part of the Crown contemplating its being referred to a Diocesan Synod.

It will in that case be for the Synod to consider and determine the provisions applicable to this important question. And although a measure may very probably be adopted for submission to the parliament of Canada not materially differing from that sought to be passed by the local Legislature, is it wise that any Parish should exclude itself from a voice in the settlement of its details?

But another circumstance presents itself prominently:

A vacancy in the Bishopric of Fredericton may at any time occur.

The endowment is provided, but how is selection to be made of a successor to the present holder of the See?

The Crown will not interfere, for on the occasion of the consecration of the Bishop of Niagara in 1866, the Earl of Carnarvon, after referring to the decision of the Judicial Committee of the Privy Council, that “Her Majesty has not the power to create a Diocese, or assign a sphere of action to a Bishop in a Colony in which an independent Legislature has been established,” stated that upon such

occasions no mandate from the Crown would thereafter issue for the consecration of a Bishop.

The appointment will not be made by the Archbishop of Canterbury, for he will undoubtedly recognize the justice of the Report of the Committee appointed by the Lambeth Conference, that in such case, "the election, as a general rule, should be made by the Diocese."

How, then, is such a choice to be made? Must it not be by the Clergy and Lay Delegates in Synod? Would the Bishops of other Dioceses, who must consecrate the person chosen, recognise any other selection? And must not the Clergy and Representatives of the Laity of the majority of Parishes who will from time to time meet, make that choice? Very probably they may at their next meeting provide regulations for such an election. Is it wise, then, that any Parish should exclude itself from a voice in a matter of such lasting consequence to the Church of which it forms a part?

A LAYMAN.

St. John, N. B., April 6, A. D. 1868.

 The Circular of the Bishop of Fredericton, Declaration of Principles, and Constitution of the Synod are added in order that an opportunity may be given for their full consideration.

FREDERICTON, *March 16th*, 1868.

REVEREND AND DEAR BRETHREN,

I beg to call your attention to the following Constitution of the Diocesan Synod, passed on July 4th, 1867, and I shall be obliged to you to act in accordance therewith, and to urge upon your parishioners to elect representatives in the manner herewith pointed out, that they may be present at our next meeting to be held this year, of which due notice will be given. Since our last meeting the Committee of Bishops appointed by the Lambeth Conference have expressed a unanimous opinion that in all Colonial Dioceses, where the Church is not established by law, a Synod should be organized for the government of the Church. We have therefore, acted in full accordance with the general judgment of the Mother Church in England in having organized a Synod in this Diocese.

I remain,

Reverend and Dear Brethren,

Your faithful Friend and Brother,

JOHN FREDERICTON.

The Constitution of the Synod of the Diocese of Fredericton, as adopted by the Meeting of July 4, 1867.

DECLARATION.

WE, the Bishop, Clergy, and Laity of the Diocese of Fredericton, in the Province of New Brunswick, assembled in Synod, and intending, under God's blessing and guidance, to consider and determine upon all such matters as shall appear necessary for the welfare of the Church in this Diocese, desire, in the first place, for the avoiding of all misunderstanding, to make a declaration of the principles upon which we propose to proceed.

We desire that the Church in this Diocese shall continue to be, as it has been, in full communion with the United Church of England and Ireland. We recognize the Canon of Holy Scripture, as received by that Church, to be the Word of God. We acknowledge the Book of Common Prayer, together with the Thirty-nine Articles of religion, to be a true and faithful declaration of the doctrines contained in Holy Scripture. And we declare our firm and unanimous resolution, in dependence on Divine aid, to preserve those doctrines, and to transmit them, unimpaired, to our posterity.

CONSTITUTION.

1. The Synod shall consist of the Bishop of the Diocese, of the Priests and Deacons of the same, duly licensed by the Bishop, and of lay representatives, to be elected as hereinafter provided.

2. The lay representatives shall be male communicants of at least one year's standing, and of the age of twenty-one years. They shall present to the Secretary of the Synod a certificate of their election, signed by the Chairman of the meeting at which they were appointed, according to the following form: "Parish of———. I hereby certify that at a meeting of the members of the Church in this Parish, held on ———, Mr. ——— was duly elected a representative in Synod. Dated ——— day of ——— A. D. ———. ——— Chairman.

3. The lay representatives shall be elected every year at a meeting to be summoned by the Incumbent, and to be held in each parish, civil or ecclesiastical, upon Easter Monday, or within thirty days after, and they shall continue in office until other representatives are appointed.

4. In the case of a vacancy occurring in the representation of any parish, by death, resignation, refusal to act, or otherwise, such vacancy may be filled at a special meeting called for that purpose by the Incumbent.

5. The Rector or Incumbent shall preside at every such meeting; but if he shall be unable to attend, the persons qualified to vote may appoint a Chairman and proceed to the election.

6. Public notice of every such meeting, whether ordinary or special, shall be given at the next previous Sunday Service, and also by a notice, written or printed, affixed to the door of each church or chapel-of-ease in such parish, at least ten days before the day of such meeting, specifying the time and place of such meeting.

7. All male persons of the age of twenty-one years, being either pew-holders or stated attendants at the public worship of the Church of England in some church or chapel-of-ease within the parish for which the election is held, for six months next preceeding the election, shall be entitled to vote for lay representatives. Provided that before any person shall be entitled to vote, he shall, if required by the Chairman or any parishioner present, make and subscribe the following declaration: "I, N., do declare that I am a member of the Church of England, resident in this parish, and belong to no other religious denomination."

8. Every parish shall be entitled to elect one representative; but

when the number of pew-holders or stated attendants in a parish, entitled to vote, shall exceed forty, such parish shall elect two representatives; and in such case the Chairman of the meeting at which they were elected shall certify that such parish is entitled to elect two representatives.

9. The quorum required for the transaction of any business in the Synod shall consist of not less than one-fourth of the whole number of qualified clergymen of the Diocese, and of a like number of lay representatives whose election shall have been certified to the Secretary of the Synod; but any lesser number shall have power to adjourn from day to day until a quorum can be obtained.

10. No act or resolution of the Synod shall become valid without the concurrence of the Bishop and of a majority of the clergy and laity present; provided that, ordinarily, the votes of the whole Synod shall be taken collectively; but that at the desire of the Bishop, or at the request of any three other members of the Synod, the votes of both orders shall be taken separately, and in this case a majority of each shall concur.

11. The Synod shall meet alternately at St. John and Fredericton once in every year, on a summons from the Bishop of the diocese; and the Bishop, or in the absence of the Bishop the Archdeacon, or if there be no Archdeacon the Bishop's Commissary, shall have power to call a special meeting, on any occasion when he may deem it necessary for the welfare of the diocese, at such time, either at St. John or Fredericton, as he may think proper.

12. The Bishop shall summon a special meeting of the Synod on a requisition in writing signed by ten of the clerical and a like number of lay members of the Synod, specifying the object of the meeting: provided that no such meeting shall be held until at least six months after the last preceding meeting.

13. When the Bishop is present he shall preside at all meetings of the Synod; when the Bishop is not present, the Archdeacon, or if there be no Archdeacon, the Bishop's Commissary shall preside: and in case of the absence of both the Archdeacon and the Bishop's Commissary, the clergy and lay representatives present shall elect a chairman, who shall preside at the meeting.

14. A Secretary shall be chosen at the first meeting of the Synod, and he shall remain in office during the pleasure of the Synod. It shall be his duty to keep regular minutes of all proceedings of the Synod, and to record them in a book provided for that purpose; to preserve all records, papers, and other documents; to certify the public acts of the Synod; and faithfully to deliver into the hands of his

successor all property, books, and papers relating to the concerns of the Synod which may be in his possession.

15 Any proposition for an alteration of the Constitution of the Synod, shall be introduced in writing and considered at the meeting at which it is introduced; and if approved by a majority of each order, shall lie over till the next meeting of the Synod, at which it may be finally adopted.